

NIL14461

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

JOHNATHAN MUDGE,

Plaintiff,

v.

**RIVERSIDE TRANSPORTATION
INC.; RIVERSIDE TRANSPORT
INC.; and RENA TALTON,**

Defendants.

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CIVIL ACTION NO. 2:23-cv-159

JURY

DEFENDANT RENA TALTON'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **RENA TALTON**, Defendant in the above matter, and file this Notice of Removal under 28 U.S.C. §§ 1441 and 1332(a).

**I.
BACKGROUND**

1. Plaintiff sued Defendants in the 222nd Judicial District Court of Oldham County, Texas, Cause No. OCI 23H 035, alleging the negligence of Defendant **RENA TALTON**.

2. Defendant **RENA TALTON** was served on or about September 7, 2023. Defendant has filed this Notice of Removal within the time period required. 28 U.S.C. §1446(b). Defendant **RIVERSIDE TRANSPORTATION, INC.** was served on or about September 5, 2023 and filed its Answer on October 6, 2023. Defendant **RIVERSIDE TRANSPORT, INC.** has not yet been served but filed its Answer on October 6, 2023. Defendants Riverside Transport, Inc. and Riverside Transportation, Inc. consent to the removal of this case to federal court.

3. Plaintiff Johnathan Mudge is a resident and domiciled in Richland County, South Carolina.

4. Defendant **RENA TALTON** is a resident of St. Louis, St. Louis County, Missouri.

5. Defendant **RIVERSIDE TRANSPORTATION, INC.** is a corporation organized under the laws of the State of Indiana with its principal place of business in Rockport, Indiana.

6. Defendant **RIVERSIDE TRANSPORT, INC.** is a corporation organized under the laws of the State of Kansas with its principal pace of business in Kansas City, Kansas.

7. Plaintiff's Original Petition, filed contemporaneously herewith, seeks "monetary relief in excess of \$1,000,000."

II.

BASIS FOR REMOVAL

8. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiff's suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is removable to this Court pursuant to the provisions of 28 U.S.C. §1441(b).

9. As noted above, Plaintiff is, and was at the time this lawsuit was filed, a resident of the State of South Carolina. *See* Plaintiff's Original Petition, Paragraph II. On information and belief, Plaintiff intends to continue residing in South Carolina and is thus domiciled in South Carolina. *See Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571 (5th Cir. 2011) (evidence of a person's place of residence is prima facie proof of his state of domicile, which presumptively continues unless rebutted with sufficient evidence of change).

10. As the Court is certainly aware, for diversity purposes, a person is considered a citizen of the state where that person is domiciled. Plaintiff is a person and domiciled in South Carolina. Defendant Rena Talton is a resident of the State of Missouri. Defendant Riverside

Transportation, Inc. is a business incorporated in Indiana with its principal place of business in Indiana. Defendant Riverside Transport, Inc. is a business incorporated in Kansas with its principal place of business in Kansas. Complete diversity exists.

11. Because the Plaintiff and the Defendants to this suit do not share citizenship in any state, removal is proper on diversity grounds.

12. Defendant **RENA TALTON** is now and was at the time the removed action was commenced, diverse in citizenship from the Plaintiff. 28 U.S.C. § 1332. Accordingly, because this notice of removal has been filed within thirty days after the receipt of a copy of the initial pleading setting forth the claim for relief, this removal is proper and timely under 28 U.S.C. §1446(b).

13. Further, as set forth in Plaintiff's Original Petition, filed with these pleadings here today, the amount in controversy in this action exceeds, exclusive of interest and costs, the sum of \$1,000,000. Thus, the amount in controversy meets the threshold for removal.

14. The United States District Court for the Northern District of Texas, Amarillo Division, embraces Oldham County, Texas, the place where the state court action was filed and is pending. This statement is not meant as a waiver of any argument that venue is improper in the location in which the state court action was filed, but merely demonstrates the propriety of removing the action to this federal judicial district.

15. All pleadings, process, orders, served upon Defendant or issued by the state court are attached to this Notice as Exhibit "A" as required by 28 U.S.C. § 1446(a). No other motions are pending before the state court.

16. Defendant will promptly file a copy of this Notice with the clerk of the state court in which the action is pending.

III.
REQUEST FOR JURY TRIAL

17. Defendant hereby demands a trial by jury in accordance with the provisions of FED. R. Civ. P. 38.

WHEREFORE, PREMISES CONSIDERED, **RENA TALTON**, as party in diversity with the Plaintiff, respectfully request that this action be immediately and entirely removed upon filing of this Notice of Removal to the United States District Court for the Northern District of Texas, Amarillo Division, and for such other and further relief to which he may show himself to be justly entitled in equity or law.

Respectfully submitted,

FEE, SMITH, & SHARP, LLP

/s/ Michael P. Sharp

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 6, 2023, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Northern District of Texas – Amarillo Division, using the electronic case filing system of the Court. The electronic filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means as follows:

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